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AN OBJECTION

DRAWN FROM

The ACT of UNION,

AGAINST A

REVIEW of the LITURGY,

AND OTHER

ECCLESIASTICAL FORMS,

CONSIDERED:

In several LETTERS to a DIVINE of the CHURCH of ENGLAND.

The whole now submitted to the impartial After-thoughts of

WILLIAM BLACKSTONE, Esq;

Author of the Commentaries on the Laws of England.

Sed tamen ut monitus, caveas ne forte negoti,
Incutiat tibi quid *detorta intentio* legum. HOR.

If Time, *of course, alter things to the worse, and* Wisdom *and* Counsel *shall not alter them to the better, What shall be the* End? Lord *Verulam.*

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N. B. THE words *Introduction*, *section*, and the like, occurring among the references without the name of any author, do point to Dr. *Blackstone*'s commentaries, vol. 1.

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Adver-

Advertiſement.

GREAT names give great ſanctions,—ſometimes to *errors*. Whether the learned gentleman, whoſe opinion is here diſcuſſed, has *truth* on his ſide, in what he has advanced upon the point in view, is left to the public to judge, the matter lying fairly here before them. If he is right in his remark, he deſerves attention; but if wrong, it is fit his miſtake ſhould be laid open, and his aſſertion cenſured. Otherwiſe, the influence of his ſuppoſed error will ſpread, in proportion to the eminence of his character, and the prevalence of his intereſt.

All

All that is here desired is, *impartiality in examining*. This granted, no farther favour is asked.

October 1, 1766.

These papers, which have been kept private for some years, might still have remained in their neglected obscurity, if some fresh occurrences had not lately happened, pointing out the propriety of making them public at this time.

The gentleman, upon whose opinion in an affair of consequence, the writer of these letters hath taken the liberty to offer his animadversions (tho' with all the respect due to the authority and merit of so great a name) will not, it is hoped, take it amiss, that he is desired to consider the matter anew, and thereupon to shew that frankness and ingenuity

genuity of temper, ever open to conviction, which is always ſhewn by diſintereſted friends to truth; and which, therefore, the public will probably expect on this occaſion, from a perſon of the honourable character of Dr. BLACKSTONE.

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LETTER

LETTER I.

A view of ſome paſſages in the Act of Union: With remarks on a certain novel conſtruction of thoſe paſſages.

SIR,

THE *Act of Union* of the two kingdoms of *England* and *Scotland*, concerning which you deſire farther information, was paſſed and ſettled in the 5th year of Q. Anne (1707) taking place the 1ſt of May in that year.

By this ſtatute (as a learned commentator upon it informs us) the acts of *uniformity* of

13 *Eliz.* *(a)* and 13 *Car.* 2. (except as the ſame had been altered by parliament at that time *(b)*, and all other acts then in force for the preſervation of the Church of *England*, are declared perpetual; and it is ſtipulated that every ſubſequent King and Queen

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(a) Act of uniformity of 13 *Eliz.*] There was no other act of *uniformity* in the reign of this Queen, beſides that of the *firſt* year, which is generally prefixed to our book of Common Prayer. The act of 13 *Eliz.* here referred to, bears a *different* title, as will be ſeen in a proper place hereafter.

(b) At that time, viz. the time of the *union.*] But the words of the union-act are, ——" Otherwiſe than ſuch clauſes in the ſaid acts as have been repealed or altered by any ſubſequent acts of parliament:" As particularly, for one, by the *Toleration-act.*—Such overſights, however, (if we muſt call them ſo) may be deemed very pardonable in ſo voluminous an undertaking, of ſo complicated a nature, and ſo replete with difficulties. Only, if more attention and leſs prejudice had been applied, in diſcuſſing and determining certain points of importance to the public intereſt, the work would have been ſtill more valuable, and the author leſs cenſured and oppoſed on account of it. It is, after all; a happineſs, that errors when diſcerned may be amended, and a writer is deſervedly the more eſteemed for his paying that regard to the Public and to Truth.

ſhall

ſhall take an oath inviolably to maintain the ſame within *England*, *Ireland*, *Wales*, and the town of *Berwick* upon *Tweed*. And it is enacted, that theſe two acts [recited in the ſtatute of union, c. 5 and 8.] " ſhall for " ever be obſerved as fundamental and eſſen- " tial conditions of the *union*."

Dr. *Blackſtone*'s obſervation here is this: " That whatever elſe may be deemed *fundamental and eſſential* conditions, the *preſervation* of the two Churches of *England* and *Scotland* in the *ſame* ſtate they were in at the time of the *Union*, and the maintenance of the acts of uniformity which eſtabliſh our Common-Prayer, are expreſsly declared ſo to be." And he adds, " That therefore any *alteration* in the *conſtitution* of either of thoſe churches, or in the *Liturgy* of the Church of *England*, would be an *infringement* of theſe *fundamental* and *eſſential* conditions, and greatly *endanger* the union." *Commentaries on the Laws of England*, B. 1. *Introd. Sect.* 4.

These are the Profeſſor's arguments; whereby he ſeems to be fully of opinion,

that *no alterations*, of any kind, can be made in our book of Common-Prayer, without infringing the act of *union*.

If this opinion is ſolid, and agreeable to the great and true deſign of that act, taking it together in all its parts and connections, we are never to expect any the leaſt reform of our liturgy from what it is at preſent, and was when that act was made; and vain therefore have been all our reaſonable hopes of ſuch a favour, and our applications to obtain it.

If there be room ſtill allowed for *reaſoning* upon the point, a great variety of arguments will occur, which may ſeem to invalidate thoſe of the Profeſſor, how ſtrong ſoever they may appear to be.

I ſhall not trouble myſelf on this occaſion, to make any formal detail of thoſe arguments, leaving that to others, who have more leiſure to conſider the ſubject, and better abilities to exhibit it in its true light.

For the preſent, it ſeems ſomewhat unaccountable to me (allowing to all other perſons their juſt freedom of judgment) that ſince the time of the aforeſaid *union*, now near threeſcore years paſt, many men of great underſtanding and knowledge in the laws, have conſidered the matter in a different light, as not having the leaſt apprehenſion that any obſtruction to a moderate and reaſonable reviſal of our liturgy, could ariſe from the act now in view.

I propoſe no more in this imperfect ſketch I give you, than to ſet down what ſhall occur to me, upon recollection, in the public declarations of ſuch learned and worthy men; obſerving no methodical rule of diſtribution, but taking them all indiſcriminately, as they ſhall happen to fall in my way.

In the year 1711, Dr. *Nicholls*, our learned commentator upon the book of Common-Prayer, publiſhed a *Supplement* to his commentary, and, in the preface to that ſupplement, has theſe words. "As to the

offices out of the Proteſtant liturgies (ſome of which are incomparably well drawn up) they may be uſeful, if at any time *hereafter* a new *Review* of our *Liturgy* ſhall be entered upon. 'Tis certain we want a form of *excommunication*; one for *abſolution* of excommunicates, and one for *executions*. And methinks 'tis a pity that *family-devotion*, and *preparatory prayers to the ſacrament* ſhould be left only to the direction of private manuals *(c)*. If a ſhort form of prayer were drawn up by the *Convocation*, to be uſed in *families*, morning and evening, and it were inforced by act of parliament to be conſtantly uſed, under a penalty, it could not fail [*but this may be queried*] of having a very conſiderable effect upon the lives of the people, and would be the occaſion of avoiding a moſt ſcandalous neglect of a moſt neceſſary chriſtian duty, I mean that of *family-devotion*."

(c) Such, for inſtance, as a book called *A Week's Preparation for the Sacrament*, &c. whereas in ſome churches the ſacrament is adminiſtered *every week* throughout the year, and in two churches in London, on every *holiday* alſo intervening between *Sundays*. Theſe private manuals often do more hurt than good.

" In

" In our old Common-Prayer books, *catechiſing* was enjoined by rubric to be performed for *half an hour after even-ſong*". " The worthy perſons (ſays Dr. *Nicholls*) who made the alteration at the laſt review, have been miſerably diſappointed in their good intentions. For this very thing has drove *catechiſm* almoſt out of the Church. For now, if miniſters catechize in prayer-time, they will drive away their congregations in moſt places. So that there being no *other* time appointed by the [preſent] rubric, the exerciſe thereof is moſt ſhamefully neglected; and the nation feels the moſt diſmal effects thereof, by the looſe principles of ſome [indeed of very many] perſons, and the ignorance of others. Happy would it be were the rubric *altered* to what it was before, and the cuſtom which obtained before the [laſt civil] wars were revived; which was, that the *children* were catechized on *Saturday* in the afternoon (when there was always public prayer,) and the *ſervants* and *apprentices* after evening prayer on *Sundays*." And the Doctor

ſubjoins his *reaſon* for ſuch an alteration; which experience proves to be a good one.

LET us here ſtop a little. If this worthy gentleman had been aware of the modern interpretation of the *union-act* in regard to liturgical matters, would he have had any thoughts or proſpect of a *new Review* of our *Liturgy* to be entered upon *hereafter?* or propoſed a *farther ſupply* of *offices?* Or would he have expreſſed his wiſh (never to be accompliſhed) of *altering* the preſent rubric about catechiſing, to what it was before the laſt review? And do not each of his propoſals appear to be reaſonable? Or can it well be ſuppoſed that the act of *union* intended to put a bar to theſe and the like uſeful improvements?

WE now go on to Biſhop *Burnet*, who was one of thoſe that had a great hand in managing and paſſing that act, the true meaning and deſign of which act, in theſe matters, we cannot but ſuppoſe he very well underſtood. His famous preface to the third edition of his *Paſtoral Care*, was written by him in 1712. He had very little

little hopes of a farther review or reformation in the Church during his time, yet ſpeaks of "many noble deſigns, which, ſaid "he, *may* be opened at *ſome* time or *other*, if "ever we are ſo happy as to endeavour to "carry our conſtitution to *perfection*; which "in our preſent diſtracted, if not deſperate "ſtate, is far out of view, and therefore "muſt be *reſerved* to a *more proper occaſion*." —Could his Lordſhip have written in this manner, if he had thought that the act of *union*, taken in its original ſenſe and deſignation, precluded all farther attempts towards perfecting our conſtitution, whether in Church or State, or both?

We are indebted to this great and good man for his farther remarks upon ſubjects of this kind. He honeſtly points out to us ſeveral things that are evidently amiſs, and generally confeſſed to be ſo, in the form and frame of our eccleſiaſtical ſettlement, and ought therefore to be rectified, when, as he ſays, *what he offers to ſucceeding ages, may be better heard.* His excellent *concluſion* of the hiſtory of his times, was written, we are told by the editor in 1708, the year next

next ſucceeding the act of union. Some of his Lordſhip's remarks are theſe. Let us conſider them without prejudice.

" I have always had a true zeal for the Church of England; I have lived in its communion with great joy, and have purſued her true intereſts with an unfeigned affection: Yet I may ſay, there are many things in it, that have been very uneaſy to me. The requiring *ſubſcriptions* to the 39 articles, is a great impoſition: — Churches and Societies are much better ſecured by *laws*, than by ſubſcriptions. — Our *worſhip* is the perfecteſt compoſition of devotion, that we find in any church, ancient or modern: Yet the *corrections* that were agreed to in the year 1689, would make the whole frame of our *liturgy* ſtill more perfect (d) as well as more unexceptionable, and

(d) *To make the whole frame of our liturgy ſtill more* perfect.] But *quære*; Is not the whole frame of it *already* perfect? — If not, Ought it not, as a ſolemn ſervice dedicated to the honour of the moſt perfect of beings, and intended *for the perfecting of his ſaints*

and will, I *hope*, at *ſome time* or *other*, be better entertained than they were then". [Q. But *When* is that time to come? and what folly is it to *hope* that it ever will, if the

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ſaints (or chriſtian people) in religion and piety, and at the ſame time for the honour of this church and nation as chriſtian and proteſtants? — Ought not this ritual to be rendered, from time to time, as perfect, as human ſkill, under the divine aſſiſtance, can well make it? — The apoſtle exhorts chriſtians to *go on to perfection* in all religious improvements. But here we are to expect none, farther than we have attained already, how ſhort ſoever of perfection our attainments herein may be. The rubs thrown in the way, to prevent our advancing towards any farther degree of perfection in rituals, ſeem to ſuppoſe, that we have already attained all the perfection that is neceſſary in ſuch matters, and that our liturgy ſtands in need of no farther emendations, of no farther improvements; being already perfect, and *all glorious within*. And to corroborate this ſuppoſition, the act of *union* muſt be called in to aid, which fixes the *Ne plus ultra*, and admits of no farther progreſs. Here we are like to end, being advanced but very little farther than where our good reformers begun.—However, let us not deſpair. Future times may favour chriſtianity, more than the preſent age does. Our preſent prejudices may wear off by degrees, reaſon be more attended to, and bigotry and faction have leſs power.

the Act of *union* has made that liturgy for ever *unalterable?*]

He touches next upon the *eccleſiaſtical juriſdiction*, and what are called the *ſpiritual courts*; which, in his judgement, and that of many others, greatly want amending. "God grant, ſays he, that a time may *come*, in which that noble deſign, ſo near being perfected in K. *Edward* the Sixth's days, of the *Reformatio legum eccleſiaſticarum*, may be reviewed and eſtabliſhed!" [A good and reaſonable wiſh for certain, but never to be obtained, ſo long as the act of *union* ſubſiſts, if ſome modern conſtructions of that act are well grounded; ſo that in regard to theſe courts, and other eccleſiaſtical grievances founded upon old popiſh laws and canons, "*we are* as the good Biſhop at the ſame time complains, ſtill *fatally tied down to all that was in uſe in the 25th year of K. Henry the Eighth* (e). To which we may add, that upon

(e) The learned Mr. *Johnſon* makes the ſame obſervation. "It is certain, ſays he, that the very *worſt* part

upon the foregoing ſuppoſition, we are ever like to be ſo tied down, and that part

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part of the [eccleſiaſtical] conſtitutions [of this realm] are party yet in force. —All canons and conſtitutions eccleſiaſtical, which were in force before the making of the ſtatute 25 *Hen.* 8. do ſo ſtill *remain*. —No canons made ſince this act, have ſo direct and expreſs a ratification given them by ſtatute, as theſe which were made and executed *before* that time".—Now ſhould not theſe old popiſh canons, which are ſo detrimental in ſome caſes to the intereſt of our religion and civil liberty, be at once aboliſhed, and no longer ſuffered to remain a blot and a burthen upon the nation? No they are faſtened upon our necks by the *Act of Union*. Be they ever ſo popiſh, they muſt *continue* in force, even in a *proteſtant* country, and never be given up till the act of *union* is given up with them. I am ſorry to hear ſuch reaſonings from the mouths or pens of men of letters, and friends to liberty.—Upon theſe and the like conſiderations, the learned author above-mentioned goes on to obſerve, that there are many *other* things in our eccleſiaſtical regimen which ſtand in need of emendations. "It is a great unhappineſs, he remarks, in our conſtitution, that it is not all of a piece, and that our diſcipline and eccleſiaſtical government were not wholly new modelled, as well as our worſhip and doctrine, at the beginning of the reformation, or ſince that time.—"Our right reverend Fathers do, on all occaſions, hint to us their opinion of the *neceſſity* of reviewing the *Liturgy* of the church of England:—and I cannot but conceive

ſome

part of *popery* muſt remain *unalterably* faſtened upon the neck of the Church of *England.*]

AGAIN. "The want of a true well-regulated *diſcipline*, is a great defect, owned to be ſo in the preface to the office of commination: And, while we continue in this condition, we are certainly in an *imperfect ſtate*.—I wiſh that ſome regard may be had to thoſe ſcruples, with which the diſſenters are entangled: — for peace-ſake I wiſh ſome things may be taken away, and others ſoftened and explained.—I confeſs it is not adviſeable, without good reaſon for it, to make *great changes* in things that are viſible and ſenſible; yet, upon juſt grounds, *ſome* may be made *without any danger* (f). No

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ſome *hopes*, that this will be done, whenever our convocation ſhall be permitted to enter upon that great work". *General preface* to his *collection* of *eccleſiaſtical laws and canons*, publiſhed in the year 1720.

(f) And yet *Danger* is the common ſcare-crow hoiſted up to our view, when any application is made for rectifying what is amiſs, and what requires amendment. A mere invention, it is well known, projected to ſerve a worldly

No inconvenience could follow, on leaving out the croſs in baptiſm, or on laying aſide ſurplices, [Q.] and regulating cathedrals, eſpecially as to that indecent way of *ſinging* prayers, and of *laymens* reading the *litany*, &c. The excluding parents from being the ſponſors in baptiſm, and requiring them to procure others, is extremely inconvenient and makes that to be a mockery, rather than a ſolemn ſponſion, in too many. Other things may be ſo explained, that no juſt exception could lie to them. Thus I wiſh the terms of communion were made

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worldly turn, by operating upon mens fears, and giving them a wrong repreſentation of things: Which was a ſucceſsful artifice in the days when the popular cry, ſet forward by a ſet of ſcheming politicians, was, *The church is in danger*; when, in reality, as was very evident, the church was in no danger at all; and accordingly the flimſy pretext was at length ſeen through, condemned, and laughed out of countenance: And a droll pamphlet, which came out very ſeaſonably at that time, had the deſired effect, bearing, as I remember, ſome ſuch title as this;

The church is always in danger, and it will be always dangerous for the church to be out of danger.

made larger and eaſier: But ſince all is now *bound* on us by a law that cannot be repealed but in *Parliament*, there muſt be a great change in the minds both of princes and people, before that can be brought about". And yet, that it *may* poſſibly be brought about in a *courſe of time*, this worthy Prelate ſeems not wholly to deſpair, notwithſtanding the act of *union*, and the ſtruggle againſt a review which ſubſiſted in his time. You obſerve, he ſays, that *ſome changes* may be made without any *danger* giving inſtances of thoſe changes. If the particulars by him ſpecified, *may* be made without danger, how or where, or to what degree, if any, would the act of *union* be affected?

THE ſentiments of the biſhop on theſe ſubjects, and in favour of a *farther* reform in the church, are by this time ſufficiently evident. I ſhall cloſe them with one of his laſt declarations, relating to the ſame general point, in his dutiful dedication of the *third* volume of his *hiſtory of the reformation* to his late majeſty King *George* I. "Your ma-

"jeſty,

" jeſty, we truſt, is deſigned by God to " *compleat* the Reformation itſelf; to *recti-* " *fy* what may be yet *amiſs*; and to " *ſupply* what is *defective* among us; to " oblige us to live and labour more ſuita- " bly to our profeſſion; to *unite* us more " firmly among ourſelves; to bury, and " for ever to extinguiſh, the fears of " our relapſing again into *popery*; and to " eſtabliſh a confidence and correſpondence " with the *proteſtant* and reformed churches " abroad".

COULD this revered Prelate, how zealous ſoever for amendments, have addreſſed his Sovereign in words ſo ſerious and ſo ſolemn, and expreſſed his hopes, or at leaſt his wiſhes, in ſuch ſtrong terms, if his Lordſhip had certainly known, that any preceding and ſuppoſed irreverſible laws, had totally and point-blank prohibited all farther reforms of this or any other kind, in the church of *England?* This ſeems hardly credible, or rather, all circumſtances conſidered, utterly incredible.

We ſhall ſee more of the Biſhop's ſentiments, on certain heads of importance, hereafter. Nor can we in the mean time, ever forget the noble declarations in favour of a fair and free reviſal made by this and other reſpectable biſhops (g), with ſome other eminent defenders of our liberties, eccleſiaſtical and civil, in the famous trial of Dr. *Sacheverel* about two years after the union. And it is in this caſe, as well as in divers others, a very juſt obſervation made by a late eminent prelate, who lived in thoſe days of heat and hurry, that "although there were not one diſſenter or proteſtant nonconformiſt in all England, yet a *review* of our public offices is deſireable, and much to be wiſhed, even for *own* ſatisfaction and credit, and for the greater honour and more extenſive uſefulneſs of our public liturgy".

I could here ſubjoin a conſiderable number

(g) *Wake, Talbot, Trimnell.*

ber of other reſpectable and weighty authorities, all pointing out the neceſſity, or, to ſay the leaſt, the expedience and utility, of a *review* of our Ritual and other eccleſiaſtical matters that are now in a ſtate of ſome diſorder for want of ſuch a timely remedy. Men of the greateſt wiſdom and ſagacity, and of the moſt extenſive knowledge in the affairs of our conſtitution, and the means of its ſafety and proſperity, have made theſe obſervations, and that even *ſince* the *union*; and they expreſs their ſentiments in ſuch a manner, as if they had never heard a ſyllable, nor ever in the leaſt imagined, that the act of *union* could create any impediment to a farther and juſt reformation. It muſt have appeared to them, to be contrary to all *reaſon*, as indeed it is, that any legiſlature ſhould knowingly and deliberately tie itſelf down, by an act of its own, to be for ever in bondage, and never make the leaſt attempt afterwards to re-inſpect any part of the conſtitution, in order to ſtrengthen and improve it, where found to be weak and defective. Laws of this

kind, if any ſuch can well be ſuppoſed to have paſſed a Senate, are, I think, univerſally allowed, by all reaſonable men, to be *ab initio*, and *ipſo facto*, void and of no force; their authority in regard to all ſuch clauſes as are point-blank contrary to right reaſon, and inconſiſtent with the good of the community, being null and ineffectual from the moment that ſuch laws are enacted. Which ſurely, in calm reaſon, equity and candor, can never be ſuppoſed to have been the deſign of our Engliſh Legiſlature, when they drew up and inforced that act of *union*.

It may, I preſume, be very pardonable, upon this occaſion, to produce the determination of a gentleman of the *law*, whom every one will allow to be a competent judge of his own meaning, and every one may hope, that he intended conſiſtency therein.

This is one of his general rules and maxims relating to acts of Parliament.

" *Acts* of *Parliament* derogatory from " the power of *ſubſequent* Parliaments, " *bind not*". And the reaſon he gives, " a valid one I conceive, is this: " Be- " cauſe, ſaith he, the legiſlature, being " in truth the ſovereign power, is always " of equal, always of abſolute autho- " rity. It acknowledges no ſuperior up- " on earth; which the prior legiſlature " muſt have been, if its Ordinances could " *bind* the *preſent* Parliament. And upon " the ſame principle *Cicero*, in his letters " to *Atticus*, treats with a proper contempt " theſe *reſtraining clauſes*, which endeavour " to tie up the hands of *ſucceeding* legi- " ſlatures. *When you repeal the law it-* " *ſelf*, ſays he, *you at the ſame time repeal* " *the prohibitory clauſe*, which guards *a-* " *gainſt ſuch a repeal*". Introd. Sect. 3. 90, 91.——Again: " If out of acts of Parliament there ariſe collaterally any *ab-* *ſurd* conſequences, manifeſtly contradictory to common *reaſon* (h), they [*thoſe acts*] are,

(h) *Contradictory to common reaſon.*] Common reaſon dictates

are, with regard to thoſe collateral conſequences, *void*".——And further, "Over and above the laws of England, *Equity* is alſo frequently called in to aſſiſt, to moderate, and to explain it". [*them*, viz. the *laws*,] p. 91, (i).

So that we may now freely join with the

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dictates the propriety of reviews, upon juſt occaſions. No laws, as the author rightly obſerves, can authoriſe an *abſurdity*. Is there no abſurdity in enacting (if ſuch an act can be ſuppoſed ever to have exiſted,) that whatever diſorders there may be in a church, they ſhall always ſo remain, and no attempts made to remove them? —Does not the abſurdity appear in full glare upon the very face of the ſuppoſition?—Laws made perpetual to prevent improvements, nay, to prevent ſetting right, things that are apparently wrong, and things that, by general confeſſion, ought to be amended?—— The ſuppoſition needs no other confutation, than its own abſurdity.

(i) See alſo *Comment*. Book 1. ch. 2. concerning the power and juriſdiction of Parliaments, in making, repealing, and expounding laws, &c. And it is a known law-maxim, *Ejuſdem eſt poteſtatis deſtruere, cujus eſt conſtituere*. No doctor of laws can by any after thoughts, or gloſſes of his own, alter or reverſe this eſtabliſhed maxim of nature and right reaſon.

the ſame learned gentleman in his obſervation, " That *ſometimes through haſte and inaccuracy, ſometimes through miſtake and want of ſkill, many have publiſhed very crude and imperfect (perhaps contradictory) accounts*" of ſome things. *Ibid.* p. 72.

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LETTER II.

Queries *upon the ſubject of a Review.*

1. CAN it be reaſonably thought, that the act of *union*, intended for ever to preclude and prevent all alterations for the better, in either of the two churches reſpectively, ſo long as each of them ſhould keep to its own rules, and its own fundamental conſtitution, neither of them interfering in the concerns of the other, nor diminiſhing the original rights of that other, in regard to the general frame and model of ſuch its conſtitution.

For inſtance: Why may not the church of *Scotland* (now called North-Britain) retaining its preſbytery, as diſtinguiſhed from epiſcopacy, be ſtill at liberty (the act of union notwithſtanding) to alter and improve, from time to time, ſuch things *within itſelf*, and concerning *itſelf only*, as ſhall be found upon experience, and a better view of things, to be indeed amiſs, or ſome way defective, or leſs agreeable to the great deſign of the Goſpel of Chriſt, and the real benefit of the community, as well in civil as in eccleſiaſtical matters?

To give but one ſpecimen. Is not the kirk of North-Britain ſtill at liberty, conſiſtently enough with the ſaid act of *union*, to make better orders and proviſions for the maintenance of its *miniſtry*, and even to regulate and improve its preſent form and mode of *worſhip*? — And ſhall I be thought to go too far, if I ſhould aſk; Suppoſing that kirk ſhould at any time hereafter think fit upon mature conſideration, to admit a public *liturgy*, of its

own

own compoſing, and intended for its *own uſe only*; Would there be any harm in this, or any thing inconſiſtent with the act of *union*, in its true ſenſe and deſign? — And ſince I am upon the ſubject, let me be permitted to aſk farther; Suppoſing *that* church ſhould, on ſome or many good accounts, judge it adviſeable, to adopt into its conſtitution, the liturgy of the church of *England*, being, as we may reaſonably ſuppoſe they will expect it to be, or will of themſelves contrive it to be, well reformed, and that for the uſe of Scotland only; Would any juſt objection lie to this, from the act of *union*? Would any infringement of that general law, ariſe from hence? This would be a different caſe from Archbiſhop *Laud*'s *impoſing* upon them the Engliſh liturgy, and eſpecially as new-modelled to his own opinions and taſte.

THE argument might be carried farther ſtill, in a variety of inſtances, and be well corroborated with cloſe reaſonings; but it is ſufficient to have pointed out here

here theſe few remarks, upon which more of the like kind may be erected hereafter.

2. ARE the two acts referred to, and confirmed by the act of *union*, of ſuch a nature, like the law of the *Medes* and *Perſians*, as never to be reverſed, or altered? — Would ſuch a reverſion or alteration, upon juſt grounds at all unſettle or incommode our union with Scotland? Was not that union *primarily* and *principally* deſigned, when firſt propoſed, to unite the two nations, for the ſtrength and ſecurity of both, in matters of a *civil* nature chiefly, and regarding the *temporal* concerns of each? The *religious* concerns of both were peculiar to each reſpectively, and ſo to be preſerved and maintained in each church. Otherwiſe the church of England, being the major body, might have impoſed upon Scotland, the form and frame of its own conſtitution in matters eccleſiaſtical; which the North-Britains dreaded, not forgetting ſome former attempts of this nature. And the church of England, at the ſame time, dreaded ſuch impoſition

tions, different from its own conſtitution, as might poſſibly in after-times, be obtruded upon her by the church of *Scotland*.— And yet, by the way, Would, do you think, the church of *England* be at all diſpleaſed, if the church of *Scotland*, voluntarily receding from its preſent conſtitution, in whole or in part, ſhould adopt that of the church of *England*, as now eſtabliſhed? and *vice verſâ*. Probably neither Church in ſuch a caſe, would ſtand much upon the ſettlement made by the act of *union*. The general intention of which act, appears to me, to be plainly this, and no other. Both Churches are allowed to remain in full and free poſſeſſion of their own reſpective privileges, not barring particular alterations and improvements in either, agreeably to their reſpective intereſts and general conſtitution. And this, ſurely, was right and reaſonable. Nor do I know, or can well imagine, that the *act* intended more than this in ſuch caſes.

3. AGAIN: Suppoſe the church of *Scotland*, at any time gaining ſuperior power,

power, ſhould attempt to impoſe her form of government, and mode of worſhip, upon the church of *England*, which I take to be the main thing provided againſt in that part of the act; Is not the church of *England* ſafe, ſo long as ſhe keeps to her own rules, and permits her-ſiſter church to retain hers? So long as neither church encroaches upon the other, they appear to me to be both ſafe, and the act will protect them in their reſpective rights. (k)

But

(k) Whilſt the treaty of *union* was under conſideration, it is evident from hiſtory, that divers of the Scotch Lords and Commons, however miſtaken, had terrible apprehenſions of the conſequences of ſuch an *union*; the Lord *Belhaven* in his famous ſpeech comparing it to *two parts of metal being melted down into one maſs*, and foreſeeing, as he thought, the *kirk*, *deſcending into a plain*, *upon an equal level with* Jews, Papiſts, Socinians, Arminians, *and other ſectaries*. And the *Preſbyterians* alſo, we are told, ſuſpected that in time, Their mode of worſhip in *Scotland*, would ſuffer a *change*, and be ſwallowed up in the church of *England*. —Here we ſee the grounds and reaſons of the ſalutary proviſions that were made afterwards, in the act itſelf, for removing theſe fears, and ſecuring the ſeparate privilege, of both churches. Which, as far as I know, remain

But ſurely both Churches may conſiſtently with the *act*, reform from time to time, what they find to be amiſs within their *own* departments. Elſe, in vain doth either of them pretend to be a *proteſtant* church; and the evangelical liberty of both is gone.

4. The argument will receive farther elucidation and ſtrength from obſerving the tenor of the words in the act itſelf. In the 25th article drawn up, as it ſeems, in Scotland, it is aſſerted, that "the ſaid act is to continue the ſure and perpetual foundation of a compleat and entire union of the two kingdoms of *Scotland* and *England*". To which aſſertion is ſubjoined this cautionary declaration, of conſiderable moment in the preſent caſe, viz. "That nevertheleſs the parliament of *England* may provide for the ſecurity of the *church* of *England* as they [ſhall] think expedient, to take place within the bound of the ſaid *king-*

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remain upon the whole, firm and unſhaken to this time,

kingdom of *England*, and not derogating from the ſecurity above provided for eſtabliſhing of the *church* of *Scotland* within the bounds of this *kingdom* [of Scotland:] As alſo the ſaid parliament of *England*, may extend the additions and other proviſions contained in the articles of union, —To and in favour of the ſubjects of *England*, which ſhall not ſuſpend or derogate from the force and effect of this preſent ratification".

It ſhould ſeem then that this clauſe diſtinguiſhes with ſufficient clearneſs, and guards with proper caution, the ſeparate power and priviledge of both Churches, and the clear and abſolute *independency* of the one upon the other to be preſerved by the union; and that no *diminution* of the rights and privileges, as then enjoyed by either church, was intended by the act; each church being permitted and ordered to remain in full poſſeſſion of the liberty and power it originally had to preſerve its own conſtitution, and (intentionally at leaſt) allowed, as it had been formerly, to make new regulations, when occaſion ſhould require,

quire, for the farther advantage and utility, as well as preſervation, of Itſelf, within the extent of its own boundaries, and without treſpaſſing upon thoſe of its fellow-proteſtant Church.

For my part, I believe this to be the true meaning and deſign of the act, in the clauſe which I have here exhibited, and which I ſhould have been glad to have ſeen produced by the ingenious and ſagacious advocate of the oppoſite opinion, it being a clauſe that could not eaſily eſcape notice, when ſo important a ſubject was under enquiry and conſideration.

Farther; I am the more confirmed in my ſentiment about the matter, by obſerving the rule and order given in the ſame article to the *commiſſioners* on both ſides, to keep within their reſpective *limits*. For inſtance: That the commiſſioners on the behalf of *Scotland*, "ſhould not treat of, or concerning any *alteration* of the worſhip, diſcipline, and government of the church of *Scotland*, as then by

by law eſtabliſhed there". And, in like manner, and with the like equitable proviſo, That the commiſſioners on the behalf of *England*, "ſhould not treat of, or concerning any *alteration* of the liturgy, rites, ceremonies, diſcipline, or government of the church of *England*, as by law eſtabliſhed within this realm" of England. This was to be no part of the buſineſs and conſultation of the commiſſioners on either ſide, their delegated power being to treat only about the *union* itſelf, and the proper terms of it, and not about any *alteration*, to be made either then or afterwards, in the ſeparate and peculiar modes and ſettlements of either church. Their proceeding farther than this, at that critical juncture, would not only have been invidious and unſeaſonable, but alſo deſtructive of the meaſures they were taking on both ſides towards the ſettling a happy union between the two kingdoms.

I will take the liberty to add here another obſervation, which I take to be of ſome moment in this affair, as it is immediately connected with the particu-

lars above ſet forth, and helps, in ſome meaſure, to illuſtrate and confirm ſtill farther what hath been hitherto adduced. — Both ſides declare, in an amicable and honourable manner, and without the leaſt reflection caſt upon either of the two ſiſter-churches, as follows. On the part of the church of *Scotland* thus: "It is reaſonable and neceſſary, that the true proteſtant religion, as preſently profeſſed within this kingdom [of Scotland,] with the worſhip, diſcipline, and government of this church, ſhould be effectually and unalterably ſecured: that is to ſay, the government of the church by kirk-ſeſſions, preſbyteries, provincial ſynods, and general aſſemblies; — and the ſaid preſbyterian government ſhall be the *only* government of the church within the kingdom of *Scotland*". — On the part of the church of England, in theſe words: "It is reaſonable and neceſſary, that the true proteſtant religion, profeſſed and eſtabliſhed by law in the church of *England*, and the doctrine, worſhip, diſcipline and government thereof, ſhould be effectually and unalterably ſecured". Which ſecurity is effected by continuing and re-

re-inforcing, on the part of this church, the two noted acts above-mentioned. Of which acts I will here give you a ſhort detail, together with ſuch reflections as ſhall occur to me upon ſurveying them.

5. As to thoſe two acts, upon whoſe duration and force our author lays ſo much ſtreſs, I would willingly aſk, What is there in either of them, that can induce us to believe, either that they are never to be altered, or that they put a perpetual reſtraint upon all farther reviſals of our liturgy? Thoſe acts are *now in force*, and that is ſufficient. But are they always to be ſo, in all and every part of them, whatever future *occaſions* may ariſe? Some articles in each have been already altered, and upon juſt grounds, by *ſubſequent* acts: And why may not ſome others, for the ſake of peace and truth, and a ſtill greater and more reaſonable uniformity, be re-modified and improved hereafter? And permit me to aſk you before I go farther, How came thoſe two eminent *lawyers*, the lord chief Juſtice *Hale*, and the lord Keeper *Bridgman*, with Biſhop *Wilkin's*, Dr. *Burton*, and other eminent men, to propoſe a ſcheme

of amendments and improvements of our liturgy in 1668, ſo ſoon after the laſt act of uniformity, if they had entertained the ſame judgment of the perpetual force and obligation of thoſe two acts, which the author of the commentaries on the laws of England hath ſince profeſſed to be *his* opinion? — And I ſhould be glad alſo to know, How you can, upon this gentleman's notion, account for the appointment of the eccleſiaſtical commiſſioners, and the order of their proceedings for the like good end, by the patriot King *William*, in 1689?

I WILL now lay before you the principal contents of thoſe two acts, leaving you to judge of the preceding queſtions, and the pertinency of each.

I. ACT. 13 Eliz. c. 12 intutled, *An Act for the Miniſters of the Church to be of ſound religion.*

1. EVERY perſon in holy orders to ſubſcribe the articles of religion (of 1562) "*which*

" *which only concern the confeſſion of the true Chriſtian faith, and the doctrine of the ſacraments*, and to bring a teſtimonial of his ſubſcription from the Biſhop, &c. upon pain of deprivation.

2. THE maintaining of doctrine againſt the ſaid articles, to be puniſhed with deprivation.

3. EVERY perſon admitted Deacon, to be *of* 23 *years of age at leaſt*, and ſubſcribe and declare his aſſent, &c. Every perſon to be admitted to a benefice with cure, to read the ſaid articles publicly, and declare his aſſent, &c. within 2 months after induction, and ſo forth.

4. DISPENSATIONS in certain caſes to be void.

5. *None to be made Miniſter, or admitted to preach, or adminiſter the ſacraments being under the age of* 24 *years*, nor without a teſtimonial previouſly brought to the Biſhop,

from men known to the Biſhop (l) *to be of ſound religion*, both of his honeſt life, and his profeſſing the doctrine of the ſaid articles, nor without ſubſcribing the ſame.

6. WHO may have a benefice of the yearly value of 30 *l.*

7. ALL inſtitutions and inductions to benefices, and all tolerations contrary to this act, to be void.

8. No lapſe to accrue upon deprivation, but after 6 months notice thereof given by the Ordinary to the Patron".

THIS is the act referred to and diſtinguiſhed by its proper title, in the act of union

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(l) *Men known to the Biſhop, &c.*] Q. Are all who ſign *teſtimonials*, thus *known* to the ordaining Biſhop? It may be much doubted. However, every diſorder ought to be rectified; elſe the pernicious conſequences of neglect herein, will grow ſtill more prevalent, and in the end prove more fatal. It may be ſtill hoped, that the act of *union*, in its true deſign and meaning, doth not forbid the rectifying of any ſuch irregularities.

nion, tho' Dr. Bl. chuſes to refer to it under a different deſcription.

THE *other* act is that which the ſame gentleman cites as 13 *Car.* 2. but in the book of common-prayer is aſſigned to the year following. Which aſſignment, by the way, if it be wrong in that book, may and ought to be rectified, notwithſtanding the act of *union*, and the doctor's comment upon it.

II. *The Act of Uniformity*, 14 *Car.* 2.

THE particulars of which are as follow.— *The King's declaration and commiſſion for reviewing the book of Common-prayer, and alterations to be propounded therein.— The peace and honour of religion much advanced by uniform agreement in the public worſhip of God.—The book of Common-prayer ſhall be uſed.—All parſons, vicars and miniſters, to read and declare their aſſent to the uſe of the ſame.—The penalty for refuſing.—Every perſon hereafter to be promoted to any eccleſiaſtical benefice, ſhall read the*

Common-prayer and Articles, and declare his aſſent thereto, within two months after induction.— The penalty for not doing ſo.— Incumbents of livings, keeping curates, ſhall read the Common-prayer once every month. --The penalty and manner of conviction for not doing it.—Deans, canons, prebendaries, &c. ſhall ſubſcribe the declaration. — The ſaid declaration exhibited.—The penalty for not ſubſcribing.—Schoolmaſters in private houſes. — Certificate of ſubſcription to be made within three months after ſubſcription. — Parſonage, &c. void, if not performed. — What to he omitted in the declaration after 25th March, 1682. — Perſons not ordained prieſts or deacons according to epiſcopal ordination, ſhall not hold any eccleſiaſtical promotion. — Nor ſhall conſecrate and adminiſter the holy ſacrament, before their being ordained prieſts accordiug to the book of Common-prayer, or their having formerly been made prieſts by epiſcopal ordination.—Penalty of acting otherwiſe.—No lapſe but after ſix months notice.—No other form of common-prayer to be openly uſed in any church or public place.—Subſcription by heads of colledges to the 39 articles, mentioned in 13 Eliz.

Eliz.—Heads of colleges, being in orders, to read quarterly morning-prayer.—Who may uſe the ſervice in Latin.—Lecturers to read the 39 *articles in the preſence of the Biſhop of the dioceſe, before admiſſion.—Every lecturer to read common-prayer the firſt time he preacheth, and declare aſſent.—And to do the ſame every firſt lecture-day in every month.—Otherwiſe diſabled to preach there, or in any other church.—Lecturers in cathedral or collegiate churches.—The penalty upon perſons diſabled who ſhall preach or lecture.—Common-prayer to be read before every lecture, and the lecturer to be preſent.— Proviſo's for lectures and ſermons in the univerſities. — Litanies and collects relating to the King, Queen, and royal family.—True printed copies of the book of common-prayer to be provided in all pariſhes and churches.—Proviſo for the Biſhop's* of *Hereford*, St. *David's*, *Aſaph*, *Bangor* and *Landaf* — *True and perfect copies of this act, and the book of Common-prayer, by whom and how to be had and kept.—Proviſo for the Kings profeſſor of law in Oxford.—Proviſo concerning the* 36*th article agreed to in the convocation* 1562.—*The common-prayer*

prayer uſed by the authority of Parliament 1 Eliz. to be uſed until Bartholomew-day, 1662.

HERE is the ſubſtance of both thoſe acts. And what is there in either of them (I take the liberty to put the queſtion again) to prevent a rational and juſt review of our liturgy, whenever there may be a juſt occaſion, in any inſtances, for ſuch a procedure? — Pleaſe, Sir, to conſider the foregoing heads again. All, I believe, that you can make of the matter, is only this. Our liturgy, as it *now* ſtands, is the only liturgy or form of worſhip, that our clergy can legally uſe in public, until legal authority ſhall think proper to reviſe and reform it.—Can it be ſuppoſed that the compilers of the acts of uniformity, or of the act of *union*, aſſumed to themſelves ſo high a ſtrain of pre-eminence in judgement, little ſhort of infallibility, as to induce them to think, that our book of common-prayer is, in its preſent ſtate, ſo perfect, that it cannot poſſibly be made better? no not, as a noted doctor ſaid formerly,

by

by the pen of men or of angels?—We cannot, we muſt not, ſuppoſe this of our governors. And, by the way, what becomes of the royal *ſupremacy?* What of the power of an Engliſh *Parliament?* What of our boaſted *liberty?* and that in a land, as our author tells us, which is "perhaps the only one in the univerſe, [or, in this ſublunary world] wherein political or civil *liberty* is the very *end* and *ſcope*, of the conſtitution; whoſe guardians are bound by every tie of nature, of honour, and of religion, to tranſmit that conſtitution, and thoſe laws (of which they are the makers, *repealers*, and *interpreters*) to their poſterity, amended if poſſible, at leaſt without any derogation". (m)

In ſhort; let the church of North-Britain, maintain inviolably its own conſtitution, as diſtinct from ours; and let the church of South-Britain, with equal fidelity and reſolution, maintain our conſtitution, as diſtinct from theirs; and then all will be

(m) *Introd.* Sect. 1. p. 6, 9.

be well, and anſwer the true ends of the act of *union*. But as to the *rectifying* of particulars within the limits of either conſtitution, as juſt occaſion may intervene, or require, *that* (as I have already intimated) is a liberty which is *inherent* in each church, and can never be parted with. Shall we not be at liberty to rectify our miſtakes? to mend what we ſee to be wrong? Are we infallible, or impeccable? It would be the ſame abſurdity, the ſame injuſtice, to deny this liberty in the affair of our union, as if the Clergy of England, and thoſe of Scotland, had made it one of the conditions of that *union*, that the former ſhall always retain their right to the gown and caſſock, and the latter to the cloke, and yet neither of them be allowed to *mend* either the one or the other, when they really required mending.

THE great Lord chancellor *Bacon* (tho' having no foreſight of the preſent *union*) ſets the matter in a very proper light, by a pertinent compariſon, which well deſerves to be conſidered by men who are attentive

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to the public intereſt, and deſire to ſee religion regarded.

"I WOULD only aſk, ſaith his Lordſhip, Why the *civil State* ſhould be purged and reſtored by good and wholeſome laws made every third and fourth year in parliaments aſſembled, deviſing remedies as faſt as Time breedeth miſchiefs, and [yet] contrariwiſe the *Eccleſiaſtical ſtate* ſhould ſtill continue upon the dregs of time, and have *no* alteration now for theſe five and forty years and more? [*By the way, ſince our laſt review, ſoon after the reſtoration, above one hundred years have elapſed.*] But if it be ſaid to me, that there is a difference between *civil* cauſes and *eccleſiaſtical*, they may as well tell me, that *churches* and *chapels* need no reparations, tho' *caſtles* and *houſes* do; (n) whereas commonly, to ſpeak truth,

(n) IN a treaty of marriage between two perſons of large eſtates in Cornwall, it is mutually agreed and covenanted, that their marriage notwithſtanding, they ſhall each of them after marriage, remain in full and

truth, dilapidations of the inward and ſpiritual edifications of the church of God, are in all times as great, as the outward and material ones". —— And this oracle of wiſdom adds, upon the ſame ſubject, " I, for my part, do confeſs, that in revolving the Scriptures, I could never find any ſuch thing, but that God hath left the like *liberty* to the *church-government*, as he hath done to the *civil government*, to be *varied* according to

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and ſeparate poſſeſſion of the ſaid eſtates as enjoyed by each party reſpectively before ſuch marriage. And it is particularly ſtipulated in and by the ſaid covenant (under no leſs penalty than a diſſolution of the marriage,) that the form and ſtructure of the two ancient *family-ſeats* of the contracting parties, ſhall for ever remain unaltered, and alſo, when out of repair, ſhall undergo no reparations; nor ſhall any modern improvements in agriculture be made upon any part of the *lands* of either eſtate, but the ſame old laudable cuſtom and manner of tillage which was in uſe, and generally practiſed in the reign of Q. *Elizabeth* (as deſcribed by *Tuſſer*, who lived in thoſe days,) ſhall always be kept up and continued upon both thoſe eſtates.

to time, and place, and accidents". *Conſiderations* touching the *church of England.*

I INTEND to give you my farther thoughts upon the ſubject in another letter.

LET-

LETTER III.

Some farther obſervations relating to the foregoing ſubject.

THE proteſtant Church of England as ſuch, is founded upon this grand principle of reaſon and of nature, viz. the right, the unalienable and indefeaſible right of *private judgment*, in oppoſition to papal authority and infallibility, and all other uſurpations upon the minds and conſciences of men and chriſtians. And this Church as we ſee in her SIXTH and other articles makes the holy *Scripture*, the ſole rule of her faith, in all her doctrines: By which alſo the contents of her Liturgy are all

to

to be regulated. Nor was this liturgy ever intended by our church to be ſet upon a par with Scripture, or ordered to be looked upon as *perfect* and *unalterable*. So far from this, that *alterations* have been *often* made in it, ſince its firſt publication, and the Church ſtill continues to declare to the world, that every one of her conſtitutions are *alterable*.

It may be ſome ſatisfaction to ſee her ſenſe of this matter ſet forth in her own words.

1. "The particular forms of divine worſhip, and the rites and ceremonies appointed to be uſed therein, being things in their nature indifferent and *alterable*, and ſo *acknowleged*; it is but *reaſonable*, that upon weighty and important conſiderations, according to the various exigences of times and occaſions, ſuch changes and alterations ſhould be made therein, as, to thoſe that are in place of authority, ſhould from time to time ſeem either neceſſary or

expedient". *Preface to the book of Com. Prayer.*

Now here, by the way, it may deſerve your notice, that this declaration of the church is virtually confirmed by the laſt act of *uniformity*, as part and parcel of the ſaid book, and conſequently the act of *union* makes this declaration to be, like the book itſelf, of perpetual force and validity: As it doth alſo, upon the ſame footing, the declaration following, viz.

2. "TRADITIONS and ceremonies (which at all times have been divers) may be *changed*, according to the diverſity of countreys, times, and mens manners; ſo that nothing be ordained againſt God's word.—Every particular or national church, hath authority to ordain, *change* and *aboliſh* ceremonies or rites of the church, ordained only by man's authority, ſo that all things be done to edifying". *Artic.* 34.

It will be here proper to ſubjoin, by the way, ſome judicious remarks of Bp. *Burnet* on this article, before we proceed to *other* declarations of the church.

"Every national church, ſays he, is fully empowered to take care of *itſelf*; and no rule made in ſuch matters is to be held *unalterable*, but may be changed upon occaſion.—That the laws of any one age of the church cannot bind another, is very evident from this: That *all legiſlature is ſtill entire in the hands of thoſe who have it.* The laws of God do bind all men at all times; but the laws of the *church*, as well as the laws of every *ſtate*, are only proviſions made upon the *preſent* ſtate of things, from the fitneſs or unfitneſs that appears to be in them for the great *ends* of religion, or for the good of mankind. All theſe things are ſubject to *alteration*; therefore the power of the *church* is in every age *entire*, and is as great, as it was in any one age ſince the days in which ſhe was under the conduct of men immediately inſpired". —— On the other hand, our

learned expoſitor of the article obſerves, That "an obſtinate adhering to things, only, becauſe they are ancient, when all the *ends*, for which they were at firſt introduced, do ceaſe, is the *limiting* the church in a point, in which ſhe ought ſtill to preſerve her *liberty*".

AND in his expoſition of the 36th and 20th articles he ſpeaks thus:

"THE churches both in the eaſt and weſt, have ſo often *changed* the *forms of Ordination*, that Our church [*of England*] may well claim the ſame power, of appointing *new forms*, that others have done. ——We muſt avoid a ſullen adhering to things, becauſe they were once ſettled, as if points of honour were to be maintained here, and that it looked like reproaching a conſtitution, or the wiſdom of a former age, to *alter* what they did [*or*, had *done*,] ſince it is certain, that what was *wiſely ordered* in one time, may be as *wiſely changed* in another".

AND

AND pray, what can poſſibly be urged with a good grace, by any man of ſerious conſideration, againſt this aſſertion of the ſame great prelate, ſpeaking expreſſly of the *act of union*, and of the objections made to it? "Where a ſupreme legi-"ſlature is once acknowledged, [as it is "in this kingdom,] nothing can be *un-*"*alterable*". (o) This is a deciſive argument, which knocks on the head at once every ſiniſter inſinuation upon this topic, and might have ſaved the learned commentator all his endeavours to inſtil into our minds contrary notions. The certainty of this poſition being once allowed, to what purpoſe is it to invent ſchemes to make us doubt its evidence, or to obſtruct its force? (p)

3. WE

(o) *Hiſt.* O. T. vol. 2. p. 463.

(p) Long after the writing of this letter, I had the pleaſure of ſeeing this obſervation of biſhop *Burnet* quoted and allowed as valid by Dr. *Blackſtone* himſelf, in his *Reply*, p. 21—More upon this ſubject may be ſeen in a late

3. We have the ſenſe of the Church farther illuſtrated in one of our *homilies*; Which are alſo virtually confirmed by the act of *union*, as it gives freſh corroboration to the two former acts, ſo often mentioned. The words of the homily are theſe.

"God's church ought not, neither may it be ſo *tied* to any order now made, or hereafter to be made or deviſed by the authority of man, but that it may lawfully, for juſt cauſes, *alter*, *change*, or *mitigate* thoſe eccleſiaſtical decrees and orders, yea, recede wholly from them.—Chriſt's church is not ſo bound to obſerve any order, law, or decree made by man, to preſcribe a form in religion, but that the church hath full power and authority from God, to *change* and *alter* the ſame, when need ſhall require". *Homily on faſting.*

To

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late ingenious and ſmart performance, well deſerving the public notice, intitled, *Occaſional Remarks upon ſome late ſtrictures on the Confeſſional*: Part 2. p. 45, 46, &c. Printed for S. *Bladon*, 1769.

To this laſt declaration of the church, I may very properly add the declarations of ſome great churchmen, who very well underſtood the nature of its conſtitution, and the juſt extent of its rights and privileges. Of theſe, Archbiſhop *Laud* ſhall be one.

" THE church, he ſays, ſhould not be ſo *bound up*, as that upon juſt and farther evidence, ſhe may not *reviſe* (q) that, which in any caſe hath ſlipped by her". *Defic. of his book againſt Fiſher, to K. Char.* I.

AND Archbp. *Bramhall* ſhall be another: Whoſe words are theſe:

 " THAT

(q) He himſelf reviſed the *liturgy*, making very conſiderable alterations in it. But he was too much a party-man to be a proper perſon to engage in ſuch a work; which required a cool head, ſolid judgement, and great ſedateneſs of temper; as alſo a juſter notion, and more enlarged ideas, of the chriſtian religion, in its true ſpirit, deſign, and extent, than his grace (and the generality of other divines in thoſe days of zeal without knowledge) had ever entertained.

" THAT which was *adviſedly* eſtabliſhed by human authority, may by the ſame authority, upon ſufficient grounds and mature deliberation be *more adviſedly* abrogated.—Whenſoever the weal-public and the common ſafety of their people doth require it, for advancement of public peace and tranquillity, and for the greater eaſe and conveniency of the ſubject in general, according to the viciſſitude and converſion of human affairs, &c. Sovereign princes may, upon well grounded experience, in a national ſynod or council, more adviſedly *retract*, what their *predeceſſors* had adviſedly granted or permitted.——Otherwiſe, kingdoms and ſocieties ſhould want neceſſary *remedies* for their own preſervation; which is granted by both parties [princes and ſubjects] to be an *abſurdity*". Vind. of Ch. of Engl. chap. 2, and 6.

MANY more obſervations of the ſame kind, may be found in *other* eminent writers of our church; who unanimouſly and very juſtly maintained the right of nature,

of

of civil communities, and of the chriſtian church, eſpecially the proteſtant part of it eſtabliſhed in England, to reviſe, reform, and improve its *own* conſtitution, in all matters that any way concern the advancement of the Goſpel in its purity and truth.

LET us now look back to ſome other declarations of this church.

4. IN the *communion ſervice* we have this rubric.

" THEN ſhall follow the ſermon, or " one of the *Homilies* already ſet forth, " or *hereafter* to be ſet forth by autho- " rity". Which laſt words (*or hereafter*, &c.) plainly indicate, that the church intended *more* homilies. And ſuppoſing ſuch an intent was now undertaking to be executed by authority, would it be ſaid, that the undertaking is inconſiſtent with the *act of union*, that it breaks in upon the conſtitution, that the church muſt in all reſpects ſtand juſt as it does, that nothing new muſt be added, no improvement made, not the leaſt alteration in any thing, for

for fear of infringing the *fundamental conditions* of the *union*, &c? What man of ſenſe and ingenuity would talk after this manner? And if, by reaſon of the act of *union*, not a ſingle ſentence or word throughout the liturgy is to be altered on any account ſoever, What is to be done with the rubric above-cited, in caſe authority ſhould actually ſet forth a *new* ſet of homilies, as intended and there intimated by our compilers? Muſt that rubric remain as it is? or if altered, are the terms of *union* broken?—You will perhaps ſay, In the caſe ſuppoſed, the *rubric* may remain as it is. But ſurely you will not at the ſame time ſay, that it will then remain in its original meaning, and give us the true ſenſe of the compilers. If then it is altered, in conformity to their ſenſe, and to reaſon, and truth, Will you continue to ſay, that the legiſlature hath no right to make ſuch an alteration, and that their preſuming to do ſo, is an *infringement* of the *act of union*?

5. In the office for *Aſhwedneſday*, the Church

Church ſays (and ſhe hath continued to ſay it without effect, for above two hundred years) " That it is *much to be wiſhed*, that the *diſcipline* of the primitive church (a *godly* diſcipline ſhe aſſerts it was) in the begining of lent, were again reſtored".— Suppoſing then ſuch a reſtoration, tho', as things now go, a reſtoration never to be expected (and, by the way, why to be *wiſhed* for?) Muſt not our liturgy be *reviſed*, and the preſent office *altered*? Has the act of *union* taken notice of this clauſe, or made any prohibition to the accompliſhing of this annual wiſh? No: ſuch particularities ſeemed to be below the notice of the enactors on ſuch a grand occaſion, and they left it to the church itſelf to rectify that diſorder, as the civil State ſhould permit them. King *Charles* II. being reminded of this wiſh of a reſtoration of the ancient diſcipline, ſaid (ſpeaking more eſpecially of the Clergy) *Who hinders them from obtaining that wiſh?* But we now know and ſee where the το Κατεχον lies, and what impedes their obtaining it.

AFTER all; Is the reſtoration wiſhed for, a thing ſo very *deſireable?* — Dr. *Nicholls*, who ſeems to have no bad opinion of it, will tell you what that *diſcipline* was; and you will then judge for yourſelf, whether you would much *like* it, if it were reſtored, and whether, whilſt it is not, you would long continue from year to year to *wiſh* for its reſtoration and exerciſe in *England*, and not rather wiſh it to be conveyed away forthwith into *Scotland*, where the rigor of its terms *(mutatis mutandis)* might be more agreeable to the preſent mode of kirk-diſcipline there.

THIS then is the account given us.

" IN the firſt day of lent, the *penitents* " were ordered to preſent themſelves be- " fore the *Biſhop*, cloathed with *ſackcloth*, " with *naked feet*, and with *eyes* turned to " the ground; and this in preſence of " the *principal* of the *Clergy* of the dio- " ceſe, who were to inſpect the *ſincerity*

" of

" of their repentance. Theſe *principal* " *Clergy* were to introduce them into " the *Church*; and the *Biſhop*, all in " *tears*, with the reſt of the Clergy, were " to ſay the ſeven *penitential pſalms*. Then, " riſing from prayers, they were to throw " *aſhes* upon the penitents, and to cover " their heads with *ſackcloth*: And then, " with *frequent ſighs*, they declared to them, " *That as* Adam *was thrown out of pa-* " *radiſe, ſo They muſt be thrown out of the* " *church*. Then the *Biſhop* commanded " the officers to turn them out of the " church-doors; and all the *Clergy* followed " after, repeating that curſe upon Adam, " *In the ſweat of thy brows ſhalt thou eat* " *thy bread*. And ſo the like penance " was inflicted upon the penitents the " next day", &c. Nicholls's note upon the word *Aſhwedneſday*.

Now ſuppoſe you *reſtore* that diſcipline; what will you be the better? Of this one thing you will fully convince Me, by ſuch a reſtoration, that nothing of this kind, in this church, is *unalterable*, not-

with-

withſtanding the act of *union*. For why? this declaration ſtood in its preſent form, before that act exiſted. And I am very ſure that the church thereby and therein acknowlegeth, that her reformation was *not perfect*. If ſhe had not made that acknowlegement, yet the thing was obvious to every man of ſenſe. And is there any man of common civility and decency, that will give the church the *lie* in this matter?

You ſee then, that you are arguing upon a wrong topic, when you inſiſt that the act of *union* puts an embargo upon all *alterations* in our liturgy, and prohibits every new article, and every improvement, that is not at preſent to be found therein.

If this were the caſe, how came our convocations, *ſince* the act of *union*, to be ſo very bold and daring, as to enter upon ſo many eccleſiaſtical ſubjects, form new regulations for the farther ſervice and ſecurity of the church, with a view to lay them

them before the *government* to be conſidered and eſtabliſhed? — But indeed the convocations did not act without *authority* in theſe matters. They had their authority from the throne itſelf; the Queen, whoſe *repeated admonitions* (ſhe ſaid) *did ſufficiently ſhew her firm reſolution to preſerve the conſtitution of the Church of England, as by law eſtabliſhed, and her Majeſty's rightful ſupremacy, having commiſſioned* them from time to time (during the ſitting of the parliament) to "propoſe, confer, conſider, conſult, and agree upon ſuch canons, orders, ordinances and conſtitutions, as they, or the greater number of them, ſhould think neceſſary, fit and convenient for the honour and ſervice of almighty God, the good and quiet of the church, and the government thereof, as by law eſtabliſhed, (r) to be from time

(r) To the ſame purpoſe the Queen, in a letter of Auguſt 20, 1711, to the Archbiſhop of *Canterbury*, to be communicated to his ſuffragan—biſhops, &c. expreſſes again her moſt gracious intentions in favour of the church of

" time to time obſerved, fulfilled, and kept,
" &c. provided that the ſaid canons, or-
" ders,

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of England, and ſetting therein ſuch regulations as ſhould be found neceſſary for the real intereſt and benefit of this church. Her majeſty's words in that letter may deſerve attention. " We think it proper to recommend to you, That before the next ſitting of convocation, you would conſider what *defects* there are in the preſent *diſcipline* of the church, and what *farther* proviſion may be requiſite towards the removing them; that when the convocation aſſembles, ſuch orders and conſtitutions as are *wanting*, may upon due deliberation, be prepared and laid before us for our conſent; which we ſhall always readily impart to whatever we ſhall judge may conduce to the honour of God, the advancement of true religion, and the welfare of the eſtabliſhed church". *Proceedings of the lower houſe of convocation.* Lond. 1713.

THESE laſt words of the Queen's letter *(whatever we ſhall judge may conduce to the honour of God, the advancement of true religion, and the welfare of the eſtabliſhed church)* do very ſeaſonably bring into my mind, the honeſt wiſhes and applications, ſo long and frequently addreſſed to the public by many of the moſt learned and judicious Divines of this realm, for a new and better *tranſlation of the Bible*, than that which we have at preſent, authoriſed by king James; in whoſe days biblical knowledge, and ſacred criticiſm, were much ſhort of the improvements they have attained ſince.

Would

" ders, ordinances, conſtitutions, matters or
" things, or any of them, be not *contrary*
" or *repugnant* to, nor tend to make any
" *alterations* in, the *doctrine*, *diſcipline*,

Would not ſuch a tranſlation, duly executed by our ableſt hands, and confirmed by legal authority, be for " the " honour of God, the advancement of true religion, and " the welfare of the eſtabliſhed church?" Does the act of *union* prohibit the undertaking of ſo uſeful a work, either here, or in Scotland, being an advantage equally wanted, and equally wiſhed for, in both kingdoms? In theſe wiſhes, and the apparent reaſons of them, they are both *united*: and ſhall a law-commentary fruſtrate theſe wiſhes, and invalidate theſe reaſons?

AND what ſhall we ſay, at the ſame time, to the noble eſigns and endeavours of Dr. *Kennicott* (ſo generouſly encouraged by his preſent Majeſty, and the moſt reſpectable perſons in both kingdoms, and elſewhere) towards recovering the original text of the old teſtament, as other learned men have done for the honour of the new? Why ſhould ſuch encouragements be given, and ſuch large contributions made, if the great work, ſo laudably undertaken, and ſo ſucceſsfully carried on, be inconſiſtent with the true deſign, or with any of the words, of the act of *union*? That act had evidently other and better views, and never meant to diſcourage any ſuch uſeful improvements in religion, any more than it did in any arts and ſciences tending to the public benefit.

" or *government* of the church of England, as " eſtabliſhed by any act or acts of parliament " in England, and now being in force." Which laſt words clearly ſhew how far the intent of the act of *union* extends, with regard to our church, as diſtinguiſhed from that of *Scotland*; viz. that the church of *England*, as by law eſtabliſhed ſhall be preſerved and continued in its preſent ſtate (the church of *Scotland* not interfering therein,) and that no alterations ſhall be made in the *doctrine*, *diſcipline* or *government* of this church. (s) Theſe

(s) *N. B.* THESE are to be conſidered as fundamentals, and inſeparable from our eſtabliſhment; and it is rightly obſerved, that according to the language of our law, the church of England is founded on *prelacy*. Secure but that grand article, the reſt will be ſecure in courſe, being ſuperſtructed upon it, and connected with it. The amendment therefore and improvement of the *liturgy*, where expedient or neceſſary, can no way interfere with thoſe great fundamentals, and were not intended to be guarded againſt by the act. If indeed a total *aboliſhing* of the liturgy were propoſed, and a directory or other ſuch rule to be ſet up in its room, the deſign of the act might poſſibly be then affected, and the union in ſome meaſure endangered. But, where is the likelihood, or the leaſt in-

Theſe being preſerved, the convocation was allowed to proceed freely upon other matters, as before expreſſed, and within the limits ſettled.

ACCORDINGLY, 9 *Ann.* her Majeſty tranſmitted to that aſſembly, the heads of ſuch matters as She thought proper for the conſideration thereof; as particularly.

" THE drawing up a repreſentation of the preſent ſtate of religion among us, with regard to the late exceſſive growth of infidelity, hereſy and profaneneſs.

" THE regulating the proceedings in

intention, of any thing of this kind in the preſent caſe? Or where is there a word in the act, either againſt amending the liturgy of the church of England, or againſt improving the directory, or mode of worſhip, of the church of Scotland, if either church ſhall think fit to rectify any particulars, that it may on experience judge to ſtand in need of rectifying? the main foundation of both churches ſtill remaining the ſame, and no attempt made to alter it in either.

excommunications, and reforming the abuſes of commutation-money(t).

" The preparing a form for the viſitation of priſoners, and particularly condemned perſons: for admitting converts from the church of Rome, and ſuch as ſhall renounce their errors:—and for reſtoring thoſe, who have relapſed.

" The eſtabliſhing *rural deans*, where they are not, and rendering them more uſeful, where they are.

" The making proviſion for the preſerving and tranſmitting more exact *terrars*, and account of glebes, tithes, and other poſſeſſions and profits belonging to benefices.—Alſo,

" The

(t) In 1713, the lower houſe of convocation agreed to apply to the civil powers for an act *de contumace* inſtead of *de excommunicato capiendo*; and another act for applying part of the moneys which ſhould be given for *commutation* of penance, to the uſe of the *charity-ſchools* in or near the place where the offender lived. See their *proceedings* and *report* of that year.

"THE regulating *licences* for matrimony according to the canon, in order to the more effectual preventing of clandeſtine marriages".

PURSUANT to theſe directions, the convocation, we find, entered upon buſineſs, and drew up ſeveral good regulations for the ſervice of this church; the titles of ſome of which are as follows.

PROPOSALS about *matrimonial licences*. —Draught of canons for regulating ſuch licences.—Form of regulating proceedings in *excommunications*.— Exhortation to be read in the church before excommunications.—Form for making and preſerving *terrars*.— Proceedings about *rural deans*; commutations of *penance*, &c. — There were alſo ſome good rules propoſed with regard to the regiſtring and preſerving of public *charities*. And they drew up a proper *form* for admitting of *converts* from the church of *Rome*: A form of *conſecrating churches*, chapels, church-yards,

&c. (u) There was likewiſe a declaration made to render the 75th canon (touching the ſober behaviour and exemplary conduct of the *clergy)* more effectual.—And in 1711, ſome uſeful conſtitutions and canons eccleſiaſtical were alſo treated upon, in virtue of royal licence, by the Archbiſhops of *Ireland*.—All which proceedings may be ſeen in Dr. *Wilkins*'s *Concilia*, vol. 4. Where you have alſo (p. 667) a moſt gracious letter of King *George* I, 1715, to the con-

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(u) In 1712, the lower houſe of convocation returned to the upper, the forms of *conſecration*, &c. with very many *amendments*, and the addition of one *collect* for the fifty new churches: which by a committee of both houſes were preſented to the Queen. See their *report*. And they mention the biſhop's ſending down to them, that ſame year, for their approbation and conſent, a paper declaring, *that ſuch perſons as have been already baptized in or with water in the name of the Father, Son and Holy Ghoſt, tho' by one who was not a proper adminiſtrator, ought not to be baptized again.*

You may compare this declaration with the rubrics in the office for private baptiſm: And Mr. *Wheatly*'s notes thereon.

convocation, directing them, among other things, to make the 47th and 48th canons (relating to the providing for and licenſing of *curates*) more effectual. And farther,— To draw up *rules for the better inſtructing and preparing young perſons for* confirmation (w) *and for the more orderly performance of that office.*

THESE are the *facts*, relating to reviews and improvements in eccleſiaſtical matters, as propoſed and undertaken, on

(w) *Confirmation.*] the learned Mr. *Bingham*, who publiſhed his ſcholaſtical hiſtory of lay-baptiſm ſome time after theſe tranſactions of the convocation, ſubmits it to the conſideration of that reverend body, "Whether a *form of confirmation* for ſuch as have been baptized by heretics and ſchiſmatics, upon their return to the unity of the church, might not be proper to be added to our *Liturgy*, when the *form of reconciling penitents*, and *others* of the like nature come next under their conſideration". *Pref. to ſchol. hiſt.* —— Can we ſuppoſe that he had never heard of the terms of the act of *union*, or if he had, that he ſo little underſtood them?

the foot of authority, ſince the year 1707. Why theſe regulations had not the honour of the royal ſanction, in either of thoſe two reigns, is a queſtion in which my preſent argument has no concern.

LET-

LETTER IV.

Heads of ſome additional arguments that may be urged, in oppoſition to the Profeſſor's interpretation of the ſtatute to defeat the hopes of a review of our liturgy.

HE may be occaſionally reminded of an extraordinary act that paſſed in the laſt year of Queen *Anne*, to oblige proteſtant diſſenters to educate their children in the principles and mode of worſhip eſtabliſhed in the church of England; — and alſo of the *annulling* of this act after the acceſſion of K. *George* I. In the fifth year

year of whoſe reign, there was, as hath been remarked by a learned gentleman of the law, a bill brought into parliament, propoſing "not only a *repeal* of "the acts againſt occaſional conformity "and ſchiſm, which had been enacted "*ſince* the *union*, but alſo of ſome clauſes "in the teſt and corporation acts, which "were confirmed and perpetuated by that "treaty". The confirmation and perpetuity intended by that treaty, were no bar to the making applications in parliament for the removal of the grievances complained of, nor did the members who eſpouſed and ſupported that cauſe, apprehend any inconſiſtency in their reaſonings and propoſals, with the true meaning and intent of the act of *union*.

He may be reminded alſo of the laſt ſtatute of *mortmain* (1736;) wherein the intereſts of the church of England were in divers reſpects very nearly concerned.

The *tithe-bill* in the ſame year (which occaſioned a conſiderable controverſy at that time)

time) may be briefly touched upon. Tho' that bill failed of ſucceſs, yet the promoters of it ſhewed by their making the attempt, that they had no apprehenſion that the terms of union with *Scotland*, would be in the leaſt affected by it.

NOR will it be eaſy for friends to liberty, or for the oppoſers of it, to forget the repeated applications made in parliament at other times for a repeal of the *teſt* and *ſchiſm acts*. Which, like the other applications, were not thought incompatible with the act of *union*, nor the true deſign of ſecuring both the churches.

AND the ſtrong attack made in parliament, at the inſtance of Sir *Nath. Curzon* and others about the year 1733, againſt the abuſes and corruptions of the *eccleſiaſtical courts*, (x) cannot very ſoon be for-

(x) THESE abuſes, and corruptions were with great freedom and energy complained of in convocation, above two

forgotten. I never heard that the bill was confronted with the act of *union*.

About ſeven or eight years after, the learned Dr. *Reynolds*, Archdeacon of *Lincoln*, very laudably moved in convocation for rectifying ſeveral things which were confeſſedly amiſs in the Church, and ſtood in need of better regulations; ſuch, for inſtance, as the dilatory and expenſive proceedings in eccleſiaſtical courts; the affair of clandeſtine marriages; the qualifications of perſons to be admitted into holy orders; the tithes and ſalaries of curates, &c. [See his letter to Dr. *Liſle*, 1742.] Who ever ſtarted an objection from the act of *Union* againſt the Archdeacon's motions in that convocation?

And

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two hundred and thirty years ago, by honeſt biſhop *Latimer*; and yet little or nothing hath been done ſince to reform them. And now here is, very opportunely, a ſpecious pretence put into the hands of the chief managers, againſt ever attempting or admitting ſuch a reformation. The act of *union* is a ſtrong bar againſt it, and that act, to their comfort, muſt continue in force for ever.

And ſurely it is impoſſible on this occaſion, to over-look the late *marriage-act*. Some of the regulations therein made come up cloſe to the common-prayer and its *rubrics*; one at leaſt of which rubrics is there totally laid aſide, notwithſtanding the act of *union*; which, as far as I could hear, was never once quoted in the debates of the two houſes on that ſubject.

The alteration of the *ſtyle* (which by the way, hath cauſed ſome conſiderable alterations to be made in our *calendars*, not to ſay, that ſome other contents of our public prayer-book ſeem to be affected by it) is freſh in every body's memory, that can remember the year 1752; and the act itſelf is, or at leaſt ought to be, in the hands of every clergyman, and of every lawyer.

Nor will the alteration eſcape our notice, which has more lately (viz. 23 Geo. II.) been made in parliament, with reſpect to that

that clauſe in the laſt act of uniformity which enjoins the *reading-in* (as it is called) to be performed *within two months after induction*, the limitation of time being now *enlarged*, where "*ſome lawful impediment* intervenes *to be allowed and approved by the ordinary of the place*".

So that in fact, to point out no other heads of argument on ſuch topics for the preſent, it appears, that ſince the year 1707, the memorable æra of the union, *divers alterations* (contrary to the ſuppoſition of *no* alterations) have been actually made even in the *liturgy* of the church of England, and yet *no infringement* thereby made of the *fundamental* and *eſſential conditions* of the *union*; nor has the union itſelf, as pretended, been *greatly*, no not at all *endangered*, by thoſe alterations; no nor, I will preſume to ſay, ever will.

To conclude. What can we now think of the acute commentator upon the ſtatute of *union*, or of the deſign he may have

have had in view, in giving us *that* ſenſe of it?—Being the firſt that had the honour of reading law-lectures, on a new foundation, in one of the moſt celebrated univerſities in chriſtendom, Is it not a ſlur upon his character as profeſſor in ſo reputable a ſtation, that at his firſt ſetting out, he hath (we preſume) ſo egregiouſly defaulted, upon one of the moſt intereſting laws of our fundamental conſtitution? Will this default be any recommendation of his future publications (which are promiſed and expected) on ſo grand and weighty a ſubject as the laws of England? And what if there ſhould be found, by judicious and attentive readers, ſome *other* ſlips, and thoſe of moment, in that part of this great undertaking which is already publiſhed; will not thoſe ſlips, whatever they be, make young academics cautious how they take all their profeſſor tells them upon truſt, and perhaps tempt others to withdraw their ſubſcriptions?

In regard to the doctrine of the profeſſor, which I have been here diſcuſſing, it is generally thought, by knowing and diſintereſted perſons, that *party-views* and *connections*, with other attachments and expectations of a ſimilar nature, have perverted the judgment, and miſguided the pen, of an ingenious and able writer.

I shall only add, that if the profeſſor's aſſertions are valid, they will ſuggeſt one of the ſtrongeſt arguments in the world againſt the incorporation of the chriſtian religion into the civil ſtate of any country, and thereby making it ſubſervient to the ſchemes of worldly policy. For ſee the effects even in this ſingle inſtance. And what remedy? None. No, nor will there, or can there, upon this ſuppoſition, be any, ſo long as the act of *union* continues in force: Which it may do, for ought we know, to the world's end.

L E T-

LETTER V.

Some clauſes in the act, relating chiefly to Scotland, *and certain alterations made there, ſince that act, conſidered and applied to the foregoing ſubject.*

YOU have ſeen in a former letter, that by the articles of *union* (5 *Ann.* c. 5.) "All acts of parliament then in force for the *eſtabliſhment* and *preſervation* of the church of *England*, and the *doctrine, worſhip, diſcipline* and *government* thereof, ſhall be in force for ever.— And alſo, that

every King or Queen [*of Great Britain*] at coronation ſhall take and ſubſcribe an oath to maintain and preſerve inviolably the ſaid ſettlement of the church of *England*, and the *doctrine, worſhip, diſcipline*, and *government* of the ſaid church within *England, Ireland, Wales*, and the town of *Berwick* upon *Tweed*. — This act ſhall for ever (y) be a *fundamental* and *eſſential* part of the ſaid act of union between the two kingdoms".

You ſee clearly the main deſign and principal terms of the act, ſo far as relates to

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(y) The law ſenſe of the words *For ever*, is very well underſtood, as implying, not an abſolute, but a *conditional* perpetuity. A ſettlement is ſuppoſed to continue *for ever*, unleſs altered upon a juſt occaſion, and by juſt authority. —In this ſenſe are the ſtatutes and rubric to be underſtood, which enjoin two of our ſtate-feſtivals to be *kept holy for ever*. And happy is it for the poorer clergy of this church, that the *firſt fruits* and *tenths* which by former ſtatutes were annexed to the crown *for ever*, were afterwards by royal bounty alienated and transfered for their ſupport in their great neceſſities. Vid 26 H. 8. c. 3—1 Eliz. c. 4. — 3 Ann. c. 11.

to the eſtabliſhment and preſervation of the church of *England*, as diſtinct from the church of *Scotland*.

SEE next the *like* ſtipulation in favour of the church of *Scotland*, as diſtinct from that of *England*.

5. *Ann.* c. 8. " The true proteſtant religion, and the *worſhip*, *diſcipline*, and *government* of the church of *Scotland*, ſhall continue without any alteration to the people of *Scotland* in all generations, purſuant to the deſign and limitations of 5 *Will.* and *Ma.* intitled, *Act ratifying the confeſſion of faith, and ſettling preſbyterian church-government in Scotland.* " The ſaid preſbyterian church-government ſhall be the *only* government of the church of *Scotland*. — This act ſhall be a *fundamental* and *eſſential* condition of the *union*".

COMPARE now the two ſections, and the diſtinctive terms of each. And will not

the *chief* view and deſign of each be obvious?

Q. FARTHER. Hath no alteration at all been made in any ſubſequent acts, relating to *Scotland*?

IN 1711, during the reign of the ſame Queen, an act paſſed "to prevent the diſturbing thoſe of the *epiſcopal* communion in *Scotland*, in the exerciſe of their religious worſhip, in the uſe of the *liturgy*, of the church of *England*", notwithſtanding the ſtrong remonſtrances made by the kirk of *Scotland* againſt ſome of the terms of of that toleration, as manifeſtly injurious to the fundamental principles and conditions of the treaty of union.—And in the year following, the Queen, at the deſire of her parliament, granted the profits ariſing from the eſtates of the Biſhops in *Scotland*, which then remained in the *crown*, to be applied to the ſupport of ſuch of the *epiſcopal* clergy there, as ſhould take the oaths to her Majeſty. [This grant may be compared with the

pre-

preceding articles, and particularly with the act of 5 *Will.* and *Ma.* above referred to.]——

In the ſame year (1711) another act paſſed, for diſcontinuing the courts of judicature in *Scotland*, during ſome days in Chriſtmas, tho' the obſerving of *holydays* was contrary to the ſettled principles of the preſbyterian church there!

Also, during the ſame year, there aroſe ſome debates in parliament, Whether or how far the act of *union* might be *alterable* in certain points relating to the *Scots*-peerage.

Again. By the Statute of *union* (art. 20.) "All *heretable* offices, ſuperiorities, and juriſdictions, ſhall be reſerved for the owners thereof, as their rights of property in the ſame manner as they were enjoyed by the laws of *Scotland*, at the time of the *union*, the act thereof in any wiſe *notwithſtanding*".

WHAT *alterations* have been made ſince in regard to this grand article of the ſaid *act*, the determinations of parliament occaſioned by the rebellion of 1745, will ſhew. And ſurely thoſe determinations appear to be juſt and reaſonable, and are manifeſtly calculated for the peace and tranquillity, and other laſting advantages, of both nations.

FROM theſe and the like topics of recollection, it is ſufficiently obvious to remark, That every new law made in ſuch matters as theſe, tho' enacted at firſt to be of *perpetual* obligation, alters the ſtate of things from what it was, when an act firſt paſſed; as was obſerved, even in parliament, on ſeveral former occaſions.

IF then, alterations of this kind, have been made in regard to *Scotland*, Who can ſay, that *no* alterations can or ought to be made in regard to *England*? And can it be deemed to be a tranſgreſſion of

any

any of our laws, that the Engliſh church ſhould review and amend its liturgy, where amendments are ſo plainly wanted, and that want is ſo generally acknowledged, by all diſcerning and diſintereſted perſons?

I do not chuſe, for the preſent, to trouble you with any farther notices of this kind. If any future occaſion ſhould require, more may be produced, and alſo preſſed home by farther arguments.

MEANWHILE, you may conſult, and at your leiſure conſider, the detail given at large of the proceedings of both parliaments in the treaty of *union*, and what hath paſſed ſince, as ſet forth by our beſt hiſtorians who have continued the hiſtory of *England* (or *Great Britain)* from that period, to the preſent times.

I MAY now hope, that from a ſerious and repeated conſideration of what I have laid before you in this and the foregoing letters, you have attained all the ſatisfaction you deſired, when, in your uſual modeſt

and friendly manner, you first applied to me for my thoughts upon the subject. I have given them without reserve, desiring no other amends for the pains I have taken, than the continuance of your esteem and friendship for,

Sir,

Your obliged and

affectionate servant.

POST-

POSTSCRIPT.

Oct. 28, 1769.

I HAVE read with attention the Reply of Dr. *Blackſtone* to the Remarks of Dr. *Prieſtley*. I have not the honour to be acquainted with either of theſe gentlemen; but I love and ſeek Truth, and always gladly embrace it, by what hand ſoever it is pointed out to me; having no regard to parties, who often do more to perplex, than they do to clear up truth.

As to Dr. *Blackſtone*, with whom alone I am now concerned, I muſt needs ſay, tho' really ſorry for the occaſion, that after the moſt ſerious conſideration of his argument,

and

and revolving it over and over in my mind, I have not the pleaſure to find myſelf at all convinced by it, in regard to the great queſtion which I have been diſcuſſing in the foregoing pages, but rather am the more convinced, by what he hath offered in the defence of his tenet, that he hath engaged in a very difficult province; in which, if I am not very much miſtaken, he can hardly by all his learning and parts, acquit himſelf with honour and ſucceſs. For the truth will ſtill make its way, and that only will be regarded by men of diſcernment and impartiality.

When I firſt ſaw his Reply advertiſed, I ſaid to myſelf, as I thought I had ſome reaſon to do,

Si Pergama dextrâ Defendi poſint, certe Hac defenſa videbo: but upon peruſal, was egregiouſly diſappointed; and only found myſelf at laſt the more confirmed in the truth of this obſervation (which daily experience corroborates,)

"They make the Laws, warp'd from their fair *intent*,
To ſpeak a language which they never *meant*."

Let

Let us attend to the original meaning and principal deſign of laws, before we aſſume the liberty to comment upon them, and then we may hope to do juſtice to the legiſlators, and to meet with the approbation we deſerve from the diſintereſted part of the public. But chicane and ſophiſtry, if ever we ſtoop to uſe them, will be of no avail to us, when confronted with ſolid reaſon, and reduced to the teſt of unerring truth.

The doctor in his *Reply* doth ſtill inſiſt (and no body that I know of blames him when he gives us the words of the law,) that the act of *union* confirms and perpetuates all the acts then in force for the eſtabliſhment and ſecurity of the two churches of England and Scotland, in their reſpective rights and privileges. All this is clear and plain. But not content with this, the doctor goes farther. Still he will have it, that as this act is, in its primary intent, *unalterable*, ſo is the liturgy too, and muſt be reputed to be; and if altered, the *union* muſt,

muſt, in conſequence of ſuch alteration, be reputed to be diſſolved.

At this I am a little puzzled, as many others have been. I would not willingly enter into freſh debate with the gentleman upon the ſubject. Perhaps he may think I have done enough, if not too much, upon it already. Yet, this appearing to me to be a point of no ſmall importance to the cauſe of religion and chriſtian liberty, I will make no ſcruple to re-inculcate and re-inforce, in different words, the ſentiments I have advanced in the preceding letters. This therefore I declare again, to be my deliberate and firm perſuaſion concerning the matter before us, viz. that the act of *union*, ſo far as it has the caſe of theſe two churches in view, means and intends no more than the *peace* and *ſecurity* of both. Each church ſhall quietly and peaceably enjoy its own rights and privileges, without any moleſtation, intruſion, or obſtruction, from the *other*. Neither church ſhall at any time, or in any wiſe, uſurp upon, or invade, the juſt liberty and rightful independency, of the other. They are both

equally

equally independent, and muſt for ever continue ſo.

THIS is all; this is certain; and this is ſufficient: The barrier is fixed, and is unremoveable. — Why then would the learned doctor endeavour to diſpoſſeſs us of this intereſting truth, and ſuggeſt to us notions ſo different from that truth, and indeed ſounding ſo odd to common ſenſe? Or how can he, with any reaſon and decency, attempt to maintain his *poſitions*, when he ſhall be pleaſed to reflect upon his *conceſſions?* Will he take away from us with the one hand, what he hath ſo fairly and freely given us with the other? Or will he aſſert that a Britiſh parliament hath power to enact laws, and no power to reſcind them? or, that if they do reſcind them in certain caſes, the union between the two kingdoms, is thereby diſſolved? He ſeems to have aſſerted both the one and the other of theſe two repugnant (I will not call them heterodox) principles. What elſe can you make of the following conceſſions, made after the former declarations, and preſented to our full

full view and notice, by one and the ſame honourable gentleman, now or lately a member of that auguſt ſenate? He may there indeed give his vote in favour of *one* of his poſitions; but what will he do with the *other*, when confronted (as we are told he has been in another affair there) by thoſe who obſerve, and will not fail to take the advantage of, his incongruities? I will not ſay there is, or there is not, prevarication here, in the eye of the world; but ſurely the matter carries an uncouth aſpect; nor can it well be mended by any after-whitening, or new varniſh.

THESE are his *conceſſions*, for which our thanks are due, and we deſire no farther rebuffs upon his own arguments. *Reply*, p. 24. he readily allows, "that the power of new-modelling the churches both of England and Scotland, doth ſtill reſide in the parliament of Great Britain", and (p. 20.) "that the power of alteration, muſt ſtill reſide in the ſupreme *legiſlature* of the *united* kingdoms.". And laſtly, he freely and generouſly acknowledgeth in his commentaries (as cited by Dr. *Prieſtley*, p. 14) "That the

the bare idea of a ſtate, without a power ſomewhere veſted, to *alter* every part of its laws, is the height of *political abſurdity.*"

If all this be true, as it certainly is, what need of inſiſting ſo much, and ſo peremptorily, upon the *unalterable* obligations, and *irreverſible* decrees, of the act of *union?* (z)

Both

(z) A letter ſigned *Paulus Sarpienſis*, in the *public Ledger* of the 18th of this month, goes ſomewhat farther than I do, in expoſtulations on this head. Taking notice of a conceſſion made by Dr. *Blackſtone* in favour of the power of parliament to new-model the two churches, as above ſet forth, the writer aſketh, not without reaſon, Why then are we ſent to acts of parliament, &c. to prove the doctrine that any *alteration* in either church would be an infringement of the Britiſh *union?* and thereupon tells the doctor without ceremony, that his argument was only an *idle topic of intimidation*, thrown in to prevent any attempt of that kind being made; and, that his conceſſion, upon the whole, turns out to be a *mere equivocation*, or playing upon words, contrived on purpoſe for the convenience of *ſhifting* to his old ground, whenever a new occaſion ſhall offer, for *explaining* upon the doctrine of *inaccuracies*. With ſeveral other ſtriking remarks on the poſitions advanced by the ſame gentleman; which it is not neceſſary for me now to purſue.

Both parties, you ſee, are agreed, in regard to the honeſt and juſt *conceſſions* here made; and thoſe who plead in the behalf of liberty, and of a ſeaſonable review, deſire no more. They plead for equity and moderation: And ſurely reaſon and truth will always be on the ſide of both.

In ſhort, whatever becomes of the notions of any modern politicians, eccleſiaſtical or civil, in England, we may always depend upon the ſolidity of that obſervation of one of the greateſt ſtateſmen of ancient Rome.

Opinionum commenta delet dies, naturæ judicia confirmat

Cic.

Some

Some candid declarations of Dr. Blackſtone *(which appear much to his credit) in his Reply to Dr.* Prieſtley's *Remarks.*

"WITH regard to the numerous ſtrictures which my commentaries have excited, if I thought them founded in juſtice, from whatever quarter they came, I have availed myſelf of the truths they imparted, and have endeavoured to correct my own miſtakes in ſome ſubſequent impreſſion of the book.—For I have always thought it more honourable to retract, than to perſevere in an error.—I ſhall own very frankly, that (on reviewing *ſuch* a paſſage,) I am convinced, that

it is ſomewhat incorrect and confuſed; and might lead a willing critic to conclude, that a general reflection was *thereby* intended, &c. A reflection which I totally diſapprove; being perſuaded, that by far the greater part of thoſe, who have now the misfortune to differ from us in their notions of eccleſiaſtical government and public worſhip, have, notwithſtanding, a proper and decent reſpect for the church eſtabliſhed by law:—and ſo far am I from wiſhing to perpetuate or widen our unhappy differences, that I ſhall make it my care in every ſubſequent edition of this volume, to rectify the clauſe in queſtion. — I have made this ſacrifice to the ſpirit of truth and moderation".

\" All perſecution for diverſity of opinions, is contrary to every principle of ſound policy and civil freedom. — Our anceſtors were certainly miſtaken, in their plans of compulſion and intolerance. — The indulgence ſhewn by the toleration-act, aroſe from a ſpirit of true magnani-

nanimity in the legiſlature. —— The law indulges proteſtant diſſenters with full liberty of conſcience in every inſtance, but that of railing at the national eſtabliſhment".

" FAR be it from me to wiſh any reſtraint to be laid on rational and diſpaſſionate enquiries into the rectitude and propriety of our national mode of worſhip. —This is not an age in which a man who thinks for himſelf, and who endeavours to think with moderation, can expect to meet with quarter from any ſide, amid the rage of contending parties".

" BOTH the churches [of England and Scotland] ſince the union, derive from the law of the land, an equal claim to protection, and perpetual ſecurity.—I have allowed that the power of new-modelling the churches both of England and Scotland,— ſtill reſides in the parliament of Great Britain. — The power of alteration,

tion, muſt ſtill reſide in the ſupreme legiſlature of the united kingdoms".

THESE and the like declarations of Dr. *Blackſtone*, do him real honour. They ſhew the man of ſenſe, and the gentleman; and, if I am not much miſtaken, will do more to retrieve and recommend his character (in theſe inſtances at leaſt) to impartial judges, than any leſs juſtifiable paſſages in his commentaries, may hitherto have done to abate their eſteem of him. Nor need it, I think, be doubted, but he will in time wherever there ſhall be juſt occaſion, oblige the world with farther marks of an ingenuous temper, and a regard to truth and honour, in reſpect of any other overſights, or leſs guarded poſitions, which may poſſibly be found in any other of his publications, beſides thoſe which have been touched upon in the foregoing diſquiſitions.

THE END.

MVSEVM BRITANNICVM